

REMARKS

Claims 1-12 are pending in this application. By this Amendment, the specification and claims 1-5, 7 and 11 are amended. Various amendments are made for clarity and are unrelated to issues of patentability.

Entry of the amendments is proper under 37 C.F.R. §1.116 because the amendments: (1) place the application in condition for allowance; (2) do not raise any new issues requiring further search and/or consideration; and/or (3) place the application in better form for appeal, should an appeal be necessary. More specifically, independent claim 1 and 5 are amended for clarity and dependent claim 11 is rewritten into independent form. No new issues are raised. Entry is thus proper under 37 C.F.R. §1.116.

Applicants gratefully acknowledge the Office Action's indication that claims 11 and 12 contain allowable subject matter. By this Amendment, allowable dependent claim 11 is rewritten into independent form. Thus, independent claim 11 defines patentable subject matter.

The Office Action rejects claims 1-4 under 35 U.S.C. §102(b) by U.S. Patent 6,269,239 to Hashem. The Office Action also rejects claims 1-4 and 7-10 under 35 U.S.C. §102(b) by U.S. Patent 6,411,799 to Padovani. Still further, the Office Action rejects claim 5 under 35 U.S.C. §103(a) over Padovani or Hashem in view of U.S. Patent 6,788,685 to Holtzman. The rejections are respectfully traversed with respect to the pending claims.

Independent claim 1 recites that each of the command values is for each of the plurality of base stations, and the command values computed are computed through the power control commands in 5 consecutive slots from each of a plurality of the base stations.

The applied references do not teach or suggest at least these features of independent claim 1. More specifically, the Office Action asserts that Hashem's column 3, lines 5-48 teaches features relating to computing command values for a plurality of base stations in a terminal in soft handover with a plurality of the base station transmitting power control commands to the terminal. However, Hashem only discloses receiving and combining power control signals from all base stations participating in the soft handoff. Hashem does not teach or suggest that each of the command values is for each of the plurality of base stations and the command values are computed through the power control commands in 5 consecutive slots from each of a plurality of the base station.

Even further, the command values recited in independent claim 1, each of which is for each of the plurality of base stations, correspond to TPC_{temp_i} in the present specification. See paragraph [0035] of this application in which "i" is an index of each base station. Computing the TPC values for each of plurality of base station through power control command from each of the plurality of base stations is different than combining power control commands from a plurality of base stations, as disclosed by Hashem. Further, independent claim 1 recites that command values are computed through power control commands in 5 consecutive slots from each of the plurality of the base stations. This makes it possible to divide each radio frame, comprised of 15 time slots, without overlapping. Hashem does not recognize the claimed features and/or advantages. Thus, the rejection of independent claim 1 based on Hashem should be withdrawn at least for these reasons.

The Office Action also asserts that Padovani's col. 7, lines 34-49 and col. 10, line 39-col. 11, line 31 teach features relating to computing command values for a plurality of base stations in a terminal in soft handover with a plurality of the base stations transmitting power control commands to the terminal. However, Padovani does not teach or suggest that the command values are computed through the power control commands in 5 consecutive slots from each of the plurality of the base stations. Padovani only discloses accumulating the demodulated power control symbols over the duration of a power control value.

For at least the reasons set forth above, Hashem and Padovani, either alone or in combination, do not teach or suggest all the features of independent claim 1. Thus, independent claim 1 defines patentable subject matter.

Independent claim 5 recites computing an average of the command value if there is no command value computed as the transmission power-down command value. Independent claim 5 also recites comparing the computed average of the command value to a reference value and raising or maintaining the uplink transmission power according to a result of the comparing.

The applied references do not teach or suggest at least these features of independent claim 5. More specifically, the Office Action states that Hashem and Padovani do not disclose the claimed comparing as recited in independent claim 5. The Office Action then relies on Holzman's FIG. 2 and col. 12, lines 48-61 as teaching comparing an average of the command value to a reference value and raising or maintaining the uplink transmission power according to a result of the comparing. However, in the cited section, Holzman performs power control bit averaging regardless of a value of the command value computed. In fact, Holzman does not

disclose computing at least one command value according to the received power control command. Thus, Holzman does not teach or suggest the features of independent claim 5 missing from Hashem or Padovani.

Furthermore, there is no suggestion to modify Hashem's explicit disclosure in column 4 so as to compute an average of the command value if there is no command value computed as the transmission power-down command value. There is no suggestion in the prior art to modify these specific teachings of Hashem so as to comparing the computed average of the command value if there is no command value computed as the transmission power-down command value (because the average is only computed when there is no command value computed as the transmission power down value in independent claim 5). Any such modification would destroy the express purpose of Hashem. This is not permitted in determining obviousness. See MPEP §2143.01.

Further, the Office Action clearly relies on impermissible hindsight in order to modify Hashem's specific disclosure or Padovani's specific disclosure in order to provide Holtzman's different teaching. This modification is not supported by any motivation in the known prior art, and therefore the combination is improper.

For at least the reasons set forth above, the applied references do not teach or suggest all the features of independent claim 5. Furthermore, there is no motivation to combine the applied references as alleged in the Office Action. Thus, independent claim 5 defines patentable subject matter.

Serial No. **10/771,119**

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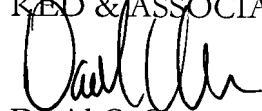
For at least the reasons set forth above, each of independent claims 1, 5 and 11 defines patentable subject matter. Each of the dependent claims depends from one of the independent claims and therefore defines patentable subject matter at least for this reason. In addition, the dependent claims recite features that further and independently distinguish over the applied references.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-12 are earnestly solicited. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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